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Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

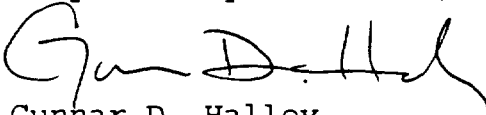
Re: Ex Parte Presentation in CC Docket No. 98-146; CS
Docket No. 97-151; CS Docket No. 96-83; and
CCBPol 97-9.

Dear Ms. Salas:

During the course of a telephonic meeting this morning with Ari Fitzgerald of Chairman William Kennard's Office, David Turetsky of Teligent, Inc. discussed issues concerning the need to ensure that tenants in multi-tenant environments ("MTEs") have access to their telecommunications carriers of choice as a function of realizing the benefits of local competition. Mr. Turetsky provided Mr. Fitzgerald with copies of all Teligent's substantive filings with the Commission in various dockets relating to this issue. I am filing this notice of ex parte presentation in those dockets that remain open through which Teligent has suggested a resolution to this issue might be achieved.

In accordance with the Commission's rules, for each above-mentioned docketed proceeding, I hereby submit to the Secretary of the Commission two copies of this notice of Teligent's ex parte presentation as well as copies of two pages that Mr. Turetsky provided Mr. Fitzgerald summarizing the means by which the Commission could accomplish MTE access as well as its jurisdiction to do so.

Respectfully submitted,


Gunnar D. Halley

Attachments

cc: Ari Fitzgerald

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APPROACHES AVAILABLE TO THE COMMISSION
TO IMPROVE TELECOMMUNICATIONS CARRIER ACCESS
TO TENANTS IN MULTI-TENANT ENVIRONMENTS

- **Directly prohibit discrimination by MTE owners:** The Commission should prohibit owners and managers of multi-tenant environments ("MTEs") from discriminating among telecommunications carriers or otherwise restricting a tenant's access to the carrier of its choice through unreasonable demands on carriers.
- **Prohibit discrimination-complacent carrier activity:** The Commission should prohibit telecommunications carriers from serving MTEs owned or operated by owners or managers that discriminate among telecommunications carriers or otherwise unreasonably restrict access by telecommunications carriers to the tenants in those MTEs. Alternatively, the Commission could prohibit carriers from entering into contracts with MTE owners or managers that provide or allow for discriminatory or unreasonable treatment of other carriers.
- **Define "rights-of-way" under Section 224 to allow for MTE access:** The Commission should interpret "right-of-way" as including the right of any utility, including incumbent LECs, to access or use intra-MTE space and facilities (even if such spaces are not actually being used). These spaces can and should include riser space, telephone and other equipment closets, in-building wiring, and rooftops. Telecommunications carriers should be granted access to these utility rights-of-way pursuant to Section 224. Of course, this option only provides a solution in those States subject to the Commission's Section 224 jurisdiction.
- **Move the demarcation point in all MTEs:** Incumbent LEC control over intra-MTE network facilities impedes facilities-based access to tenants, raises the costs of providing service to tenants, and places competitive carrier access at the discretion of the incumbent LEC. The Commission should move the demarcation point in all MTEs to the minimum point of entry so that all carriers, including the incumbent, access the premises at the same location, on the same terms and conditions, and at the same cost. It is important to note that this option requires MTE owner permission for telecommunications carrier entry, so nondiscriminatory access obligations would remain necessary.
- **Provide for subloop unbundling of intra-MTE riser cables and in-house wiring:** Where the demarcation point is not located at the minimum point of entry, a substantial portion of intra-MTE facilities may be a part of the incumbent LEC network. Some facilities-based carriers can bring their networks up to the entrance of an MTE. By providing unbundled access to intra-MTE facilities, the Commission will allow facilities-based carriers to avoid the wasteful purchase of an entire loop simply to reach a tenant in an MTE from the entrance of that MTE.
- **Include fixed wireless carriers within the ambit of Section 207:** By including fixed wireless carriers within the scope of Section 207's protections, carriers will be able to install their antennas on building rooftops without building owners imposing unreasonable restrictions or otherwise blocking access when a tenant within that building seeks to take service from the fixed wireless carrier.

MULTI-TENANT BUILDING ACCESS AND FCC JURISDICTION

- **Authority Over Interstate Wire and Radio Communications:** That portion of a telecommunications transmission path that is located within a multi-tenant environment ("MTE") constitutes an essential component of the transmission of interstate wire and radio communications. Moreover, the Commission's jurisdiction does not depend upon the ownership of such facilities. For example, whether inside wiring (or any portion of intra-MTE telecommunications facilities) is owned by the multi-tenant building owner or the incumbent LEC, the Commission's retains authority over inside wiring issues (i.e., the demarcation point, ownership, use). This jurisdiction offers the same basis for the Commission's authority to ensure that tenants within multi-tenant environments have access to their telecommunications carrier of choice. Both concede the importance of intra-MTE facilities for the transmission of interstate wire and radio communications to and from tenants in MTEs. The jurisdictional grants under Title I and Title II apply. The pro-competitive goals of the Telecommunications Act of 1996 are highly relevant. Nevertheless, the jurisdictional inquiry must also extend to grants of authority within the Communications Act that precede the 1996 amendments.
- **Authority Over Telecommunications Carriers:** The Commission can accomplish MTE access indirectly through its authority to regulate providers of interstate communications. Specifically, it should prohibit carriers from serving MTEs owned or operated by owners or managers that discriminate among telecommunications carriers or otherwise unreasonably restrict access by telecommunications carriers to the tenants in those MTEs. Alternatively, the Commission could prohibit carriers from entering into contracts with MTE owners or managers that provide or allow for discriminatory or unreasonable treatment of other carriers.
- **Section 224 Authority:** In those States that have not certified to the Commission that they regulate pole attachments, the Commission could accomplish MTE access by defining rights-of-way to include all areas within and on top of MTEs to which utilities, including incumbent LECs, have the right of access. As a result, telecommunications carriers could gain access to these areas pursuant to Section 224.
- **Section 207 Authority:** By including fixed wireless carriers within the scope of Section 207, the Commission would retain authority to ensure that MTE owners and managers do not unreasonably restrict the placement of antennas on building rooftops to serve tenants within those buildings.
- **Section 706 Authority:** Since many telecommunications carriers, including fixed wireless providers, will offer advanced telecommunications services and capabilities, the Commission could take measures to improve MTE access pursuant to its wide-ranging Section 706 authority.